



# State of New Mexico

## *Office of the Governor*

Bill Richardson  
*Governor*

### EXECUTIVE ORDER 2004-02

#### ERRANT NOTARY PUBLIC

**WHEREAS**, the safety and security of its citizens are among the first duties of government; and

**WHEREAS**, the Governor of the State of New Mexico has determined that the product of an errant notary public can cause problems for innocent citizens of the state; and

**WHEREAS**, the Governor of the State of New Mexico is vested by law with the power to revoke the commission of notaries public pursuant to section 14-12a-26 NMSA 1978; and

**WHEREAS**, in order to promote fairness and efficiency in determining whether such revocation should occur in any given case, uniform standards and guidelines that protect the rights of the public as well as those of individual notaries are required;

**NOW, THEREFORE**, I Bill Richardson, Governor of the State of New Mexico, by virtue of the authority vested in me under the constitution and laws of the State of New Mexico, do hereby order as follows:

1. The Secretary of State shall appoint a hearing officer on the Governor's behalf for the purpose of hearing and resolving complaints and other allegations against notaries. The Governor hereby directs that the Office of the Secretary of State forward any and all complaints against notaries to the Attorney General of the State of New Mexico, who as administrative prosecutor shall investigate such complaints and determine whether formal charges should be brought.
2. Every notary public shall be afforded notice and an opportunity to be heard before the Governor takes any action to revoke the commission of said notary.

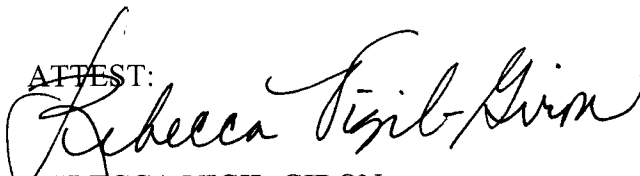
When the Attorney General determines that sufficient grounds exist to initiate an action which may result in the revocation of a notary's commission, a written notice of contemplated action similar to that required by Section 61-1-4(d) NMSA 1978 shall be signed by the Attorney General and served upon the notary. Service of this

notice shall be made as provided for by Section 61-1-5 NMSA 1978. The provisions of Section 61-1-4(e) and (f) shall apply following service of the notice.

4. All such revocation hearings shall be open to the public; venue for all such hearings shall be laid in Santa Fe, New Mexico.
5. A notary entitled to be heard under Section 14-12a-26(b) shall have those rights available to a person under Section 61-1-8 NMSA 1978.
6. The hearing officer shall have all the powers available to boards and hearing officers under Section 61-1-9 NMSA 1978. The hearing officer is further vested with those powers provided for board secretaries under Section 61-1-10 NMSA 1978. In addition, sections 61-1-11 and 61-1-12 NMSA 1978 are applicable to all proceedings in which a notary public's commission may be revoked.
7. After the hearing has been completed, the hearing officer shall make his findings of fact, conclusions of law and any recommendations for disciplinary action, which shall be in writing and submitted to the Governor within 45 days after the date of hearing. A decision based on the hearing shall be made by the Governor within 60 days of receipt of the findings of fact, conclusions of law and recommendations for disciplinary action, if any. Within 45 days after the Governor's decision is rendered it shall be served by the Governor's office on the notary by United States mail.
8. The contents of the Governor's decision need not contain findings of fact or conclusions of law but shall contain a concise statement informing the notary public of his or her right to judicial review and the time limits within which such review must be sought.
9. Section 61-1-17 NMSA 1978 is applicable to these revocation proceedings except that venue for such reviews shall be laid solely in the district court for the first judicial district. The hearing officer shall file with the clerk of the first judicial district court the necessary record within 60 days after service of a copy of the petition of review on the hearing officer.
10. Sections 61-1-19 and 61-1-24 NMSA 1978 are applicable to the review process.
11. There shall be no statute of limitations affecting revocation actions against notaries public; the standard of proof applicable at such revocation hearings shall be a preponderance of the evidence.

**THIS EXECUTIVE ORDER** supersedes any other previous orders, proclamations, or directives in conflict. This Executive Order shall take effect immediately and shall remain in effect until such time as the Governor rescinds it.

ATTEST:



REBECCA VIGIL-GIRON  
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE  
THIS 8<sup>th</sup> DAY OF January, 2004

WITNESS MY HAND AND THE GREAT  
SEAL OF THE STATE OF NEW MEXICO



BILL RICHARDSON  
GOVERNOR

